

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| PATRICK J. WAGNER, | : | CIVIL ACTION |
| | : | |
| Petitioner, | : | |
| | : | |
| v. | : | NO. 05-2828 |
| | : | |
| DAVID DI GUGLIELMO, et al., | : | |
| | : | |
| Respondents. | : | |
| _____ | : | |

ORDER

AND NOW, this day of , 2005, upon careful and independent consideration of the Petition for Writ of Habeas Corpus, and the Response thereto, and after review of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated October 18, 2005, IT IS HEREBY ORDERED that:

1. the Report and Recommendation is APPROVED and ADOPTED;
2. the Petition for Writ of Habeas Corpus is DENIED for lack of jurisdiction; and
3. there is no probable cause to issue a certificate of appealability.

BY THE COURT:

EDMUND V. LUDWIG, S.J.